

PART XII SPECIAL INCOME DETERMINATIONS

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PART XII

SPECIAL INCOME DETERMINATIONS

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A. SELF-EMPLOYMENT INCOME

1. Definition

Self-employment income includes:

- a. The total gross income from a self-employment enterprise, which shall also include the total gain from the sale of any capital goods or equipment related to the business.
- b. Farm income. Income from farming will be that income derived from activities such as:
 - 1) the production and sale of crops and livestock for food;
 - 2) the raising of livestock to produce items such as eggs, wool, milk, etc.; and,
 - 3) the production and sale of tobacco, cotton and other non-food crops.
- c. Payments from roomers and boarders.
- d. Income from rental property. (See [Part XI.C.2](#) and [Part XI E.6.](#))

If a person has incorporated a self-employment enterprise, either alone or with other persons, and draws a salary from the business, the wages drawn are regular earned income (not self-employment income). In such a situation, the person's share of the net worth of the corporation is a resource.

2. Averaging of Self-Employment Income (7 CFR 273.11(a))

All self-employment income is calculated in the same manner described below, except income from boarders not residing in a commercial boarding house. Instructions for computing this type of income are described in [Part XII.B.](#)

- a. Self-employment income which represents a household's annual support must be annualized over a 12 month period, even if the income is received in a shorter period of time. For example, income from a farmer's crop that represents the farmer's annual support must be averaged over a 12 month period, even though the income is received in a shorter time frame. In addition, self-employment income that represents a household's annual support must be annualized even if the household has income from other sources.

Note: There are situations when it is difficult to determine if self-employment income represents a household's annual support. This can be especially difficult to ascertain when the household has income from other sources. In an effort to make such a judgement, however, other factors, in addition to the household's own statement, that could provide some indication as to how long the household could sustain itself on such income must be examined and evaluated. Such factors would include, but are not be limited to, the previous year's business and personal expenses, tax records, anticipated expenses for the current year, income expected to be received from other sources during the coming year, and so on. These factors, when compared with the income from seasonal self-employment, should provide a basis for making a determination about how long the income is intended to support the household. For example, if the previous year's expenses were proportionate to the household's income from self-employment, it could be an indication that the income would sustain the household for a year; therefore, the household's income should be annualized. If expenses were not proportionate with the income, it might be determined that such income could not sustain the household for a year; therefore, income should be averaged over the period of time the income is intended to cover.

- b. Self-employment income received on a monthly basis but representing a household's annual support must normally be averaged over a 12-month period. Examples of this type of self-employment includes most small businesses, such as grocers, or some farmers. If the averaged amount does not accurately reflect the household's true monthly circumstances because of a substantial increase or decrease in business, the self-employment income must be calculated based on anticipated earnings.
- c. Self-employment income that does not represent a household's annual support must be averaged over the period of time the income is intended to cover. This type of seasonal self-employment includes vendors who receive their income in the summer or during the tourist season and supplement it through another source during the rest of the year.

- d. Households with newly formed enterprises that have been in existence less than a year shall have their self-employment income averaged over the amount of time the business has been in operation, and the monthly amount projected for the coming year. If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, a certification period should be assigned which allows for a timely review of the household's circumstances.

If a household farming for the first year has not yet received its first income, or an established farming household has not yet realized a change in income due to a change in the amount or type of crops raised, the EW should not anticipate the amount of the expected income from the new crop when determining the household's income.

3. Determining Monthly Income from Self-Employment (7CFR 273.11(a)(2))

- a. For the period of time over which self-employment income is determined, the EW must:
 - 1) Add all gross self-employment income, including capital gains, for the period of time over which income is determined.
 - 2) Subtract the cost of producing the self-employment income (See [Part XII.A.5.](#))
 - 3) Divide the remaining self-employment income by the number of months over which the income will be averaged.
- b. When self-employment income is not averaged but is calculated on an anticipated basis, the EW must:
 - 1) Determine any capital gains the household anticipates **receiving during the period over which the income is averaged which is likely to be the certification period.**
 - 2) Divide the amount by 12 (use this amount in successive certification periods during the next 12 months unless the anticipated amount of capital gains changes. If this should occur, a new average monthly amount must be calculated.)
 - 3) Add anticipated monthly amount of capital gains to anticipated monthly self-employment income.

- 4) Subtract the cost of producing the self-employment income. The cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the income.

If obtaining verification of the cost of doing business will delay the household's certification, the local agency must advise the household that the household's eligibility and benefit level may be determined without providing a deduction for these costs. If these costs or a portion of them cannot be verified within 30 days of the date of application, the local agency must determine the household's eligibility and benefit level without providing a deduction for the unverified portion. The household must be given at least 10 days to provide the verification. For initial applications and reapplications, if the household would be ineligible unless these unverified costs are allowed, the household will have an additional 30 days to take the required action. Action must be taken on recertifications in accordance with the verification time frames described in [Part IV.C.4](#).

One or more payments to farmers from the Disaster Assistance Act of 1988 (P.L. 100-387) must be counted as earned income. These payments, made to farmers who are adversely affected by a drought, are given for crop losses or to buy feed grain. This income is considered a replacement for income lost as a result of a drought, and for self-employed farmers, the income must be processed in accordance with normal annualizing procedures for self-employment income. Since the payment is counted as income, it is excluded as a resource. (PIRS 89-4).

4. Capital Gains (7 CFR 273.11(a)(3))

The proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for federal income tax purposes. Even if only 50% of the proceeds from the sale of capital goods is taxed, the EW must count the full amount of the capital gain as income for food stamp purposes.

Example

Farmer A purchased a tractor for \$3,000 in **1987**. Over the period of 10 years he claimed \$3,000 in depreciation on the tractor. In **1997**, he sold the tractor for \$1,000. For income tax purposes, the transaction appears as follows:

Purchase price	\$3,000
Depreciation claim	<u>3,000</u>
Purchase base	0

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Sale price	\$1,000
Reported as gross	<u>x 50%</u>
Taxable income	\$ 500

For Food Stamp purposes the entire proceeds, or \$1,000, would be included as gross income.

5. Allowable Costs of Producing Self-Employment Income (7 CFR 271.11(a)(4))

Allowable costs of producing self-employment income include, but are not limited to, the following:

- a. the identifiable costs of labor, stock, raw material, seed and fertilizer.
- b. payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods or on the principal for improvements to real estate.
- c. interest paid to purchase income producing property, capital assets, equipment, machinery, and other durable goods.
- d. insurance premiums paid on income producing property.
- e. taxes paid on income producing property.
- f. costs of repairs to property needed for general maintenance.
- g. identifiable shelter costs needed for the business enterprise.

For households whose mortgage payments represent an investment in the household's residence as well as an investment in income producing property, the mortgage payment, interest, and taxes will be deductible only as part of the household's shelter costs and not as a cost of producing income. If the household can document, however, that costs on that portion of the home used in the self-employment enterprise are separate and identifiable, payments on the mortgage principal, taxes, interest, and other identifiable costs may be deducted as a cost of doing business.

6. Costs Not Allowed (7 CFR 273.11(a)(4)(ii))

The following items are not deductible as a cost of doing business:

- a. net losses from previous periods.
- b. federal, state, and local income taxes.

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- c. money set aside for retirement purposes.
- d. other work related personal expenses, such as transportation to and from work.
- e. depreciation.

NOTE: "b", "c", and "d" are included in the 20% earned income deduction.

7. Allowable Costs of Producing Income for Day Care Providers

When day care is provided in the home of a member of one household to children other than those living in the same food stamp household, an allowance must be made for the cost of meals and snacks that are provided. The allowance is as follows, unless the provider documents actual costs that exceed these amounts:

Breakfast - **\$1.06** per meal; Lunch or Supper - **\$1.96** per meal;
Snacks - **\$.58** per meal.

Money paid to day care providers under Section 12 of the School Lunch Act to serve meals to children, other than their own, is countable. Allowable business costs, as described above, are given.

8. Net Loss from Farm or Fishing Operations (7 CFR 273.11(a)(2)(iii))

Self-employed farmers, as defined in [Part XII.A.b](#), and self-employed fishermen may have a net loss once allowable costs of doing business are deducted from gross farm income. If the farmer or fisherman receives annual gross proceeds of \$1,000 or more from the farming or fishing enterprise, any net loss amount must be prorated over the year in the same manner used to prorate the farm or fishing income. Losses from farm or fishing self-employment enterprises are offset in two phases. The first phase is offsetting against non-farm/fishing self-employment income. The second phase is offsetting against the total of earned and unearned income. The gross income eligibility standard is applied after offsetting. The earned income deduction is based on wages and salaries, and any income from self-employment remaining after the first phase of offsetting.

9. Depreciation

Depreciation is not allowed as a cost of producing self-employment income for equipment, machinery or other capital investments necessary to the self-employment enterprise.

B. BOARDERS (7 CFR 273.11(b))

The income of households owning and operating a commercial boarding house is handled as self-employment income under [Part XII.A.2 and 3](#). A commercial boarding house is an establishment licensed as a commercial enterprise that offers meals and lodging for compensation. In localities without licensing requirements, a boarding house is as a commercial establishment that offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house is not used to determine if a boarding house is a commercial enterprise.

For all other households containing boarders, the income from the boarders must be calculated following the procedures in this chapter. See [Part VI.B.](#) to determine boarder status.

1. Income from the Boarder

The income from boarders must include all direct payments to the household for room and meals, including payments to the household for part of the shelter expenses. Shelter expenses paid by boarders directly to someone outside the household (such as a landlord or utility company) are not counted as income to the household.

2. Cost of Doing Business

To determine the net amount of countable income from a boarder the EW must deduct the cost of doing business from the gross monthly income figure.

The cost of doing business is equal to one of the following:

- a. If the household takes more than two meals per day, the amount of the maximum coupon allotment for a household size that is equal to the number of boarders; or,
- b. if the household takes two meals or less per day, the amount equal to two-thirds of the maximum coupon allotment for a household size that is equal to the number of boarders; or,
- c. the actual documented costs of providing room and meals, if they are higher than the appropriate coupon allotment.

The allowable cost of doing business may never exceed the amount the household receives from the boarder. If actual costs are used, only separate and identifiable costs of providing rooms and meals to the boarders are allowed.

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3. Earned Income Deduction

The 20% earned income deduction as defined in [Part X.A.2.](#) will be allowed for all income from boarders. The net boarder payment must be added to all other earned income before allowing the 20% deduction.

C. SPONSORED IMMIGRANTS (7 CFR 273.4(c))

Affected Groups

All immigrants granted U.S. visas based on family connections and some employment-based immigrants must have a sponsor in order to obtain permanent residency. The sponsor must execute an affidavit of support on behalf of the immigrant to demonstrate financial responsibility for the immigrant.

This chapter applies to persons who file visa applications on or after December 19, 1997, and for persons who file for an adjustment of status on or after December 19, 1997.

Individual sponsors must document that they have the capacity to financially support and maintain an immigrant, generally at 125 percent of the federal poverty level. The sponsor must execute a legally enforceable affidavit of support, INS Form 864, on behalf of each immigrant. The sponsorship affidavit also requires an agreement to reimburse agencies for any means-tested public benefits obtained by the sponsored immigrant.

The agency must evaluate the provisions of this chapter for immigrants who are eligible for food stamps as permanent resident immigrants with 40 quarters of work credited to them ([Part VII.F.1.f.](#)) and for permanent residents who are conditionally eligible for food stamps if they meet a qualified status ([Part VII.F.2.](#)).

Exemptions

The provisions of this chapter do not apply to the following groups:

- Immigrants without sponsors. This group includes persons who entered the United States without an individual sponsor who signed a legally binding affidavit of support. These immigrants include refugees, asylees, persons whose deportation is withheld, Amerasians and Cuban/Haitian entrants.
- Immigrants whose sponsors signed affidavits of support before December 19, 1997 or persons whose sponsors have not signed a legally enforceable affidavit of support.
- **Immigrant children under 18 years of age.**

- Immigrants who would be indigent without food stamps or other public assistance in that the household's income, including any assistance from the sponsor, is insufficient to provide food or shelter. Indigence here means that the household's own income and any direct cash or in-kind contribution from the sponsor or others do not exceed the gross income level for the household's size. The only income the agency may deem from the sponsor for a 12-month renewable period is the amount the sponsor actually provides if the immigrant is indigent. The local agency must report the immigrant and sponsor's names to the U.S. Attorney General if an immigrant is determined to be indigent.

This exemption will last for one year from the date of the indigence determination. The agency may renew the indigence determination for additional 12-month periods.

- An immigrant determined to be a battered spouse, child or parent or subject to extreme cruelty in the U.S. The person must be living separately from the batterer. This exemption covers any 12-month period. The exemption may be extended for additional 12-month periods if the immigrant shows that a court, administrative order or the Immigration and Naturalization Service recognizes the battery and if the local social services agency determines the battery has a substantial connection to the receipt of food stamps.

1. Computing the Countable Income of Sponsors

A portion of the monthly income of the sponsor and the sponsor's spouse, if he or she executed the affidavit of support, must be considered in determining the eligibility and benefit level of the household of which a sponsored immigrant is a member. The agency must make the determination as follows:

- a. Calculate the earned income of the sponsor and the sponsor's spouse.
- b. Deduct the 20% earned income deduction from this amount.
- c. Add the unearned income of the sponsor and the sponsor's spouse.
- d. Deduct the gross income eligibility limit for the size of the sponsor's household including any person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes.
- e. The remainder is the countable income for the sponsored immigrant for food stamp purposes.

If the immigrant has already reported gross income information about the sponsor for the sponsored alien rules for TANF, that income amount may be used for food stamps. Allowable deductions are limited to the 20% earned income deduction and the food stamp gross monthly income amount stated above.

If a sponsored immigrant can demonstrate to the local agency's satisfaction that the sponsor is responsible for other immigrants, the income deemed here must be divided by the number of sponsored immigrants.

Money paid to the immigrant by the sponsor (or the sponsor's spouse) will not count as income unless the amount paid exceeds the amount attributed to the immigrant under [Part XII.C.1.a.](#)

Examples

- Sponsor's income attributed to immigrant \$100
Amount paid directly to the immigrant by
the sponsor for an "odd job" \$ 60

This \$60.00 amount will not count as income to the immigrant's household.

- Sponsor income attributed to immigrant \$100
Amount paid directly to the immigrant by
the sponsor for an "odd job" \$120

The \$20.00 over the \$100 attributed income is countable income to the immigrant's household.

2. Computing Countable Resources of Sponsors

Resources of the sponsor and the sponsor's spouse count towards the immigrant household. The total amount of the sponsor's and spouse's nonexempt resources must be reduced by \$1500. If a sponsored immigrant can demonstrate to the local agency's satisfaction that the sponsor is responsible for other immigrants, the resources counted here must be divided by the number of sponsored immigrants that apply for or are participating in the Food Stamp Program.

3. Termination of the Sponsor's Obligation

The evaluation and use of the income and resources of the sponsor and spouse of the sponsor must continue toward the food stamp eligibility and benefit level of the immigrant until the immigrant becomes a U.S. citizen. The evaluation of the sponsor's obligation will also terminate when the immigrant can be credited with 40 quarters of work coverage, provided the immigrant received no public benefits for any quarter beginning January 1997. (See [Part VII.F.](#) for a discussion of qualifying quarters of work.)

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Other conditions that will cause the sponsor's support obligation to end are the death of either the sponsored immigrant or the sponsor, or instances when the immigrant leaves the country or no longer holds permanent resident status.

4. Responsibilities of the Sponsored Immigrant

The immigrant is responsible for the following:

- a. obtaining the cooperation of the sponsor;
- b. providing information or documentation necessary to calculate the countable income and resources of the sponsor at application and recertification; and,
- c. providing the names or other identifying information about immigrants for whom the sponsor has signed an agreement to support to enable the local agency to determine how many of these sponsored immigrants are Food Stamp Program applicants or recipients so that the sponsor's attributed income and resources can be divided by the number of such immigrants.

If information about other immigrants for whom the sponsor is responsible is not provided, the income and resource amounts will be attributed to the immigrant in their entirety until the information is provided.

The immigrant is also responsible for:

- reporting the required information about the sponsor and sponsor's spouse if a different sponsor is obtained during the certification period; and,
- reporting a change in income should the sponsor or the sponsor's spouse changes or loses employment, or dies during the certification period. These changes must be handled according to the timeliness standards in [Parts XIV.A.](#)

The household is primarily responsible for obtaining the information or verification needed to determine the sponsor's or spouse's income and resources but, the agency must provide assistance in accordance with [Part III.B.](#)

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5. Reimbursement Procedures

After food stamp benefits are issued to a sponsored immigrant, the local agency must pursue collection of the amount of benefits issued. The local agency may lump together the amount of all public benefits issued by the agency instead of pursuing separate collections for each program. Legal and other collection costs may be included in the reimbursement requests.

The agency must exclude any sponsor who is participating in the Food Stamp Program from the reimbursement procedures.

The request for reimbursement must be sent to the sponsor by personal service and must include the following:

- a. Date of the sponsor's affidavit or support;
- b. Sponsored immigrant's name;
- c. Immigrant's registration number;
- d. Address of the immigrant;
- e. Immigrant's date of birth;
- f. Type of public benefit received;
- g. Date(s) benefits received; and,
- h. Total amount of benefits received.

The request for reimbursement must advise the sponsor to respond within 45 days of the request by paying the requested amount or by arranging a payment plan that is satisfactory to the agency.

If the sponsor does not respond to the reimbursement request, the agency may file a civil suit against the sponsor at the end of the 45-day period. If a final judgment is obtained against the sponsor, the agency must mail a certified copy of the judgment and a cover letter containing the reference "Civil Judgment for Congressional Report - 213A(i)(3)IIRIRA" to:

Immigration and Naturalization Service
Statistics Branch
425 I Street NW
Washington, D.C. 20536

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The agency must send any reimbursement payments for food stamp benefits and a copy of the reimbursement request letter to:

U.S. Department of Agriculture
Food and Consumer Service
Mid-Atlantic Regional Office
P.O. Box 953772
St. Louis, MO 63195-3772

The agency must send a copy of the reimbursement request letter and reimbursement check to:

U.S. Department of Agriculture
Food and Consumer Service
Mid-Atlantic Regional Office
300 Corporate Boulevard
Robbinsville, NJ 08691-1598

Note that while a sponsor's obligation may be terminated for conditions noted in Section b. above, that termination does not relieve the sponsor or the sponsor's estate of the obligation to reimburse programs for the issuance of public benefits provided before the support agreement terminated.

Efforts to collect amounts issued to sponsored immigrants through the Food Stamp Program or other means-tested public benefits must be taken within 10 years of the date of the last issuance.

6. Awaiting Verification

If the information necessary to determine the amount of the sponsor's or sponsor's spouse's income and resources attributed to the immigrant, is not received or verified in a timely manner, the sponsored immigrant will be ineligible until all necessary facts are obtained. In addition, if questions arise about whether an immigrant has a sponsor, the date of entry, or the date of the adjustment of status, such questions must be resolved before food stamp eligibility can be established for the immigrant. The eligibility of any remaining household members must be determined. The income and resources of the ineligible immigrant (excluding the attributable income and resources of the alien's sponsor and sponsor's spouse) must be treated in the same manner as a disqualified member as set forth in [Parts XI.G and XII.E](#), and considered available in determining the eligibility and benefit level of the remaining household members.

If the sponsored immigrant refuses to cooperate in providing and/or verifying needed information, other adult members of the immigrant's household will be responsible for providing and/or verifying the information required. If the household refuses to cooperate in this regard, the entire household is ineligible. If the information or verification is subsequently received, the local agency must act on the information as a reported change in household membership in accordance with the timeliness standards in [Part XIV.A](#).

If the same sponsor is responsible for the entire household, the entire household is ineligible until the needed sponsor information is provided and/or verified.

D. HOUSEHOLDS WITH A DECREASE IN INCOME DUE TO FAILURE TO COMPLY WITH ANOTHER PROGRAM'S RULES

Food stamp benefits must not be increased when a household's benefits from another means-tested, publicly funded program are reduced, terminated, or suspended because of failure to comply with that program's requirements. Changes that are not related to the penalty imposed by the other program must continue to be reflected in the food stamp allotment, including adding household members who may be barred from receiving benefits from other public assistance programs. The public assistance income, as a penalty, must not be counted in the calculation for food stamp benefits if the public assistance case is closed at the household's request or for a reason other than noncompliance, regardless of prior case actions that may have been taken due to noncompliance.

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1. For federal, state, or local public assistance programs, such as TANF or GR, failure to comply will be determined to exist after it has been established that policy exemptions and good cause provisions, if appropriate, have not been met. Failure to comply may also be evidenced by a court conviction for a fraud conviction or a finding through the ADH process.

When TANF or GR benefits are decreased because of the household's failure to comply with that program's requirements, the food stamp allotment will be based on both the current amount of the TANF or GR check and the amount of the reduction or penalty. The penalty income must be counted as long as the reduced payment is received. If the PA case is closed, the penalty income must be counted in the food stamp calculation for a minimum of six months following the closure of the PA case or longer if the PA case remains under care.

Example

The agency reduced a household's TANF grant from \$291 to \$241 per month. The reduction occurred because of the household's failure to comply with the immunization requirements needed by TANF program rules. The TANF amount to be used for the Food Stamp Program is \$291.

The agency must evaluate acts of noncompliance with work program requirements where individuals or households must be sanctioned and apply the provisions of Part VIII.A.4 before applying the provisions of this chapter.

2. Social Security (OASDI) benefits, unemployment compensation and veteran's benefits are not means-tested programs. If reduced payments occur for these programs because of a failure to comply, the food stamp allotment will be based only on the current amount of the check(s).
3. HUD payments and SSI are publicly funded and means-tested programs. If reduced payments occur for these programs because of a failure to comply however, the food stamp allotment will be based only on the current amount of the check(s), to the extent the payment is counted as income for food stamp purposes.

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E. DISQUALIFIED INDIVIDUALS: TREATMENT OF INCOME, RESOURCES AND DEDUCTIONS (7 CFR 273.11(c))

Individual household members may be disqualified from participating in the Food Stamp Program for a number of reasons. The reason for the disqualification must be assessed because of the different procedures for calculating the income to the remaining household members.

This chapter describes the procedures to be used to determine the eligibility and benefit level of the remaining household members.

1. Resources

The resources of the disqualified individual shall continue to count in their entirety to the remaining household members.

2. Income

a. The earned or unearned income of an individual disqualified:

- 1) for an intentional program violation;
- 2) because of noncompliance with work registration;
- 3) as a result of a sanction for FSET, voluntary quit, or work reduction;
- 4) for fleeing prosecution or imprisonment or one who is violating terms for parole or probation; or
- 5) as a result of a felony conviction involving controlled substances,

is counted in its entirety to the remaining household members.

b. A pro rata share of the income of:

- 1) an individual disqualified for failure to obtain or refusal to provide a Social Security number;
- 2) an ineligible alien;
- 3) an individual whose U.S. citizenship is in question and for whom no verification has been provided, or
- 4) an individual who is unable to participate further because of time-limited eligibility through the work requirement (Part XV),

is counted as income to the remaining household members. This pro rata share is calculated by first subtracting any allowable exclusions from the individual's income and dividing the income evenly among the household members, including the disqualified one. All but the disqualified individual's share is counted as income to the remaining household members.

In situations where a household includes more than one member disqualified for the reasons listed above, each excluded member's income is prorated among all household members, including other excluded members, even if the other excluded members have no income. All but the amount attributed to the excluded members in [Part XII.E.2.b.](#), is counted in computing the household's income for eligibility and allotment purposes.

If a single payment is received for more than one beneficiary, and one is to be disqualified, determine the income to be assigned to each individual in accordance with [Part XI.F.7.](#)

3. Deductions

For the calculation of deductions, consideration must be given to whether the disqualified household member is responsible for an expense or whether the disqualified member pays the expense. If the disqualified member is responsible for an expense but the eligible household members actually pay the expense, the expense must be treated as an expense of the eligible household members rather than as that of the disqualified members. Similarly, if the disqualified members pay a household expense, even though someone else is responsible for the expense, the expense will be attributed to the disqualified members as outlined below.

- a. For individuals disqualified for one of the reasons listed in 2.a. above, the standard deduction, earned income deduction, medical deductions, dependent care expenses, excess shelter deductions, homeless shelter allowance and mandatory child support payments shall continue to apply in their entirety to the remaining household members.
- b. For individuals disqualified for, a reason listed in 2.b. above, deductions shall be handled in the following manner:
 - 1) The 20 percent earned income deduction shall apply to the countable prorated income earned by the excluded member.

- 2) That portion of the household's allowable shelter and dependent care expenses that are either paid by or billed to the **disqualified** members and allowable medical and child support expenses of the **disqualified** members, must be divided evenly among the **eligible and disqualified** members. All but the amount attributed to the **disqualified** members in b. above is allowed as a deduction and is counted as a deductible expense for the remaining household members.

4. Eligibility and Benefit Level (7 CFR 273.11(c)(4))

The disqualified individual shall not be included when determining the household's size for purposes of assigning a benefit level, for purposes of comparing the household's monthly income with the income eligibility standards, or comparing the household's resources with the resource eligibility limits. In addition, if the only elderly or disabled individual in the household is the disqualified individual, the household shall not be entitled to the unlimited shelter deduction which otherwise would apply to a household containing an elderly or disabled individual.

F. AVERAGING CONTRACT AND SELF-EMPLOYMENT INCOME (7 CFR 273.10(c)(3)(ii))

1. Annualization

Households, other than migrant or seasonal farmworkers, which by contract or self-employment, derive their annual income in a period of time shorter than one year must have that income averaged over a 12-month period. Prorating the income over 12 months is appropriate as long as the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. Contract income that is not the household's annual income, in that it is intended to meet the household's needs for only part of the year, must be prorated over the period the income is intended to cover. The procedures for averaging self-employment income for shorter periods than 12 months are described in [Part XII.A.2](#).

The statement of an hourly rate of pay in a contract does not necessarily mean the contract is on an hourly basis and therefore is not to be annualized. If the total amount of annual income for the contract period can be derived from the information contained in the contract, or information that is readily available, exclusive of days which may be missed due to circumstances such as illness or bad weather, the income is annualized.

Examples

1. A school bus driver's contract states he will receive \$7 per hour for 5 hours per day over the 180 day school year. The school board states the school year has 180 days. Since a total amount of income can either be derived from the contract or is readily available (7 times 5 times 180 equals \$6300 per year), the total income is annualized.
2. A school cafeteria worker's contract calls for \$7 per hour over the school year of 180 days, but the number of hours available is not indicated. The number of hours per day varies, and the school board cannot anticipate the number. The total amount of income for the contract period cannot be derived from either the contract or other information and, therefore, income is not annualized.

There may be instances in which a contract is initiated for a partial year after the start of the normal contract period. In these instances, the income must be prorated over the partial contract period in the same manner as if the person was hired for the entire contract period.

Example

A contract for a school employee is entered into in January. The regular contract period is September - June. Income for food stamps would normally be prorated from September through August. For this partial year, the income must be prorated from January through August.

2. Adjustments to Annualized Amounts

In those cases where a contract specifies a set amount over the contract period, plus additional monies of an uncertain amount if additional work is available and done, only the base contract amount is annualized. Additional monies earned over and above the base contract are counted as income when they can be anticipated. The EW must explore with the household the past receipt of such income and whether the person is receptive and therefore available for the extra employment. In some instances, the pattern of past receipt of extra earnings may suggest that such money should be anticipated.

Example

A school bus driver's contractual amount is \$6300 per year. However, the driver can earn an extra \$10 per trip driving for special school functions. \$6300 divided by 12 equals 525 per month to count as income from the contract.

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Suppose in March the client earns an additional \$40 driving to basketball games. He reports receipt of this income to the agency. No additional money is expected because no other trips are currently planned and his work history shows that no special trips occur after the basketball season. The annualized contract amount of \$525 is the only income considered for future months.

In those cases where a contract calls for no pay for those days not worked, income averaging over a 12-month period is still appropriate. If it can be anticipated at the time of certification that certain days will be missed, the salary for these days should not be counted. Otherwise, the income calculation is to be based on the maximum salary. The household may then inform the local agency as days are missed. The average will then be adjusted for the remaining months.

Example

A school bus driver's contract states that he will receive \$1250 for the year, but that he will not be paid for days the school is closed or for days he is sick. When he applies on March 10, he has already missed three days for snow in the contract year and he was sick for two days. The contract reads that \$10 will be deducted for each day not worked. The household is certified with income of \$100 per month ($\$1250 - \$50 = \$1200 \div 12 = \100.00).

On April 5, the household reports that another two days have been missed, which were not anticipated at the time of certification. The household's food stamp income is then adjusted to \$98.33 ($\$1200 - \$20 = \$1180 \div 12 = \98.33).

With the effective date of the next contract, the maximum income from that contract will be averaged over the year, less the income for any anticipated absences.

It will also be necessary to adjust the average if the contract amount changes during the contract period as a result of an increase in salary. As in the situation above, the average is adjusted for the remaining months of the annualized period.

Example

A school employee signs a contract which states that he will receive \$3600 per year. The contract runs from September through June. Thus, \$300 is assigned to each month in the year, beginning in September. Effective in

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January, the employee reports that his salary was increased to \$4800 per year. Now, \$400 is assigned to the months remaining in the contract period ($\$4800 \div 12 = \400).

3. Termination of Annualized Income

If no further income from the same source is expected, contract income that has been annualized is considered terminated as of the last month included in the annualization.

Example

A contract school employee is paid \$6,000 over the ten months in the school year, September through June. She grosses \$600 in each of the 10 months. She does not plan to work for the school board in the next school year.

The Food Stamp worker annualizes the income over the year September through August, and counts $\$6,000 \div 12 = \500 per month.

Should the employee apply in June, her income is not considered terminated in June, even though June is the last month she receives a pay check. The income is terminated in August, the last month included in the annualization.

Income that is interrupted within the contract period is considered terminated the month the change in contract employee status occurs.

Example

A school employee quits in February. The agency annualized her contract income and assigned income to the months September through August. The income will no longer count for February

Self-employment income that has been annualized is considered terminated as of the month the person terminates the self-employment enterprise.

G. WAGES HELD BY AN EMPLOYER

Wages held by an employer at the request of the employee will count as income to the household for the month the wages would otherwise have been paid by the employer. Wages held by the employer as a general practice

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will not count as income to the household even if it is in violation of law. Held wages will count if the household expects to ask for and receive an advance, or expects to receive income from wages that the employer previously held as a general practice. This income will count as long as the local agency did not previously count the income.

Advances on wages count as income in the month received only if the EW can reasonably anticipate the receipt of the income as defined in [Part XIII.A.3](#). Conversely, when an employer withholds wages to repay an advance that previously counted as income in a food stamp determination, the wages withheld will not count as income.

H. TRANSITIONAL BENEFITS FOR FORMER TANF RECIPIENTS

Transitional Benefits allow food stamp benefits to continue in a frozen amount for a brief period while former TANF recipients adjust financially to the loss of the TANF grant. At any time during the Transitional Benefits period, the household could decide to reapply and receive a regular food stamp allotment.

1. Transitional Benefits Eligibility

When a TANF case closes, the EW must convert the food stamp case to Transitional Benefits unless the food stamp household is ineligible for Transitional Benefits or the household requests closure of the food stamp case.

Transitional Benefits will apply to any food stamp case:

- if at least one household member is the Case Name or Payee for a TANF case that closed and
- with a closed TANF case.

Transitional Benefits will not apply if:

- **there is no active case certified to receive food stamp benefits at the time of the action to close the TANF case;**
- the TANF case has a suspended status, regardless of the reason for the suspension;
- the TANF case closed because of noncompliance with TANF Program rules that results in a sanction or disqualification of the TANF benefits;
- the household requests to remain in the regular Food Stamp Program before the switch to Transitional Benefits occurs.

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- the TANF case is closed because there are no eligible children in the home as a result of a child protective services investigation;
- the TANF case is closed after discovery that the case was approved in error;
- the food stamp case or members have a sanctioned or disqualified status because of noncompliance with Food Stamp Program rules; and,
- the TANF case closed because of the household's failure to renew its eligibility at the end of the certification period.

1. Calculation of Benefits

Households will receive benefits during the transitional period based on the circumstances that existed at the time of the TANF case closure. In instances where the TANF case is connected to the food stamp case, ADAPT will recalculate food stamps to subtract the TANF grant amount from the food stamp calculation for the month of the TANF case closure. In other instances, the EW must recalculate the benefits. The calculations must reflect the removal of the TANF grant amount and the TANF Match payment for child support received. The calculations must not include a substitution of the TANF amount with any new income amount that may have caused the TANF case closure. The EW must leave all other eligibility factors in place, including income, deductions and household composition.

The EW must not reflect any changes in the food stamp allotment during the Transitional Benefits period. As the agency discovers changes or the household reports changes in its circumstances, the EW must act on those changes for food stamps but override any system recalculations of the allotment to reflect the "frozen" amount as calculated above. In instances where household members leave the household and subsequently apply in another food stamp household, the EW must delete the household members who are in another food stamp household and adjust the allotment for the new household size. In other words, during the Transitional Benefits period, except for household composition changes to delete members to prevent duplicate participation, the EW must not adjust benefits to reflect changes.

Households receiving Transitional Benefits will not be entitled to adjusted benefits through a mass change if a mass change occurs during the Transitional Benefits period.

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3. Transitional Benefits Procedures

The Transitional Benefits period will be for five calendar months after the effective date of the TANF case closure. The certification period for Transitional Benefits cases will be five months. The EW must adjust the original certification period to lengthen or shorten the period so that the certification period will be five months.

The EW must provide the household with a Notice of Action to notify the household of the revised benefit amount and new certification period. The agency must send the Notice of Expiration before the last month of the new certification period to notify the household to reapply for benefits in order to continue to receive food stamp benefits.

Households that receive Transitional Benefits are not required to report changes in their circumstances for the Food Stamp Program except a change of address. These households are not subject to the Interim Reporting requirements as addressed in [Part XIV](#).

4. Ending Transitional Benefits

- Eligibility for Transitional Benefits will end the month an application for TANF benefits is filed if the household reapplies for TANF assistance. The EW must provide an adequate notice for the closure. The application will be treated as an application for food stamp benefits unless the household elects not to apply for food stamps.
- Eligibility for Transitional Benefits will also end as soon as administratively possible if a TANF case is reinstated because of the household's request for continued benefits for a timely-filed appeal. The food stamp case must be changed to reflect the original certification period and calculations that existed before the conversion to Transitional Benefits. The EW must provide an adequate notice.
- Transitional Benefits will end as soon as administratively possible when the household requests closure of the case. The EW does not need to send a notice to the household if the request is made in writing or in person. The household must reapply for food stamp benefits to receive additional benefits.
- Transitional Benefits will end when a household moves from Virginia. The EW does not have to provide either an advance or an adequate notice.